

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claim 11 has been canceled without prejudice or disclaimer of the subject matter contained therein. Thus, claims 1, 12-20, 34 and 36 are pending under consideration in the present application, of which claims 1, 13, 34 and 36 are independent.

With appreciation, it is noted that the Office Action indicates (see present Office Action, page 4, first paragraph) claims 12 and 14 as containing allowable subject matter.

Claim Rejection Under 35 U.S.C. §103

Claims 1, 11, 13, 17, 20, 34 and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hirst et al. (U.S. Patent No. 6,581,166, Hirst hereinafter) in view of Bare (U.S. Patent No. 6,577,600).

INDEPENDENT CLAIM 1

As an example, independent claim 1 recites (among other things) a feature of "the control device starts to transfer the control packet ... when the receiving device receives a control packet instructing transmission stoppage of the control packet" (underlining added for emphasis). As will be explained below, at least this feature of claim 1 is a distinction over each of Hirst and Bare, and thus over their combination.

Regarding Hirst, Hirst merely describes transmitting a connectivity verification packet without any discussion of "a control packet instructing transmission stoppage of the control packet". In particular, column 12, lines 33-34 of Hirst state "establishing a second connectivity verification rate for transmitting a connectivity verification packet" (underlining added for emphasis). Hence, the noted feature of claim 1, namely "the control device starts to transfer the control packet ... when the receiving device receives a control packet instructing transmission stoppage of the control packet", is a distinction over Hirst.

Regarding Bare, Bare merely describes a topology change notification with spanning tree without any discussion of “a control packet instructing transmission stoppage of the control packet”. In particular, column 82, lines 13-16 of Bare state “... only need to increase the cost ... will trigger a topology change notification with spanning tree” (underlining added for emphasis). Hence, the noted feature of claim 1, namely “the control device starts to transfer the control packet ... when the receiving device receives a control packet instructing transmission stoppage of the control packet”, is a distinction over Bare.

Among other things, a prima facie case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 1 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a prima facie case of obviousness vis-à-vis claim 1.

INDEPENDENT CLAIM 11

Again, independent claim 11 has been canceled without prejudice or disclaimer of the subject matter contained therein.

INDEPENDENT CLAIMS 13, 34 and 36

Independent claims 13, 34 and 36 each recite a feature that corresponds to the above-noted feature of claim 1, and so at least similarly distinguish over the asserted combination of references.

DEPENDENT CLAIMS

Claims 17 and 20 depend from claim 13, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 1, 13, 17, 20, 34 and 36 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 15, 16, 18 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hirst in view of Bare and Chin et al. (U.S. Patent No. 6,298,061, Chin hereinafter).

Claims 15, 16, 18 and 19 ultimately depend from independent claim 13, respectively. A basis for how Hirst and Bare are deficient vis-à-vis claim 13 has been discussed above. The Office Action does not rely upon Chin to compensate for these deficiencies. Hence, the noted feature of claim 13 also is a distinction over Chin.

Among other things, a prima facie case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claim 13 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a prima facie case of obviousness vis-à-vis claim 13. Claims 15, 16, 18 and 19 ultimately depend from claim 13, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 15, 16, 18 and 19 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

PATENT

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Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-1290.

Respectfully submitted,

Dated: February 12, 2010

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